

Decisions of Speakers of the Legislative Assembly Bengal

VOLUME II

*Decisions of Mr. Speaker Nausher Ali and
his deputy, Mr. Deputy Speaker
Jalaluddin Hashemy*

1943—1945

**Secretariat of the Legislative Assembly
West Bengal
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To

The Speaker

**In whose hands the high tradition
of the Chair rests**

PREFACE

The second volume of the Decisions of Speakers of the Legislative Assembly, Bengal, containing the rulings of Mr. Speaker Nausher Ali and his Deputy, Mr. Jalaluddin Hashemy, is now published. This volume has also been compiled by S. Charu Ch. Chowdhuri, Special Officer of the West Bengal Legislative Assembly.

A. B. MUKHERJEA,
*Secretary, West Bengal Legislative
Assembly.*

The 11th September, 1950.

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PART I

Decisions of Mr. Speaker Nausher Ali.

1st March, 1943 to 14th May, 1946.

Decisions of Mr. Speaker

Nausher Ali

ADJOURNMENT OF HOUSE.

The Speaker has the inherent right to adjourn the House.

Progs: 14th June, 1944, Vol. LXVII, No. 6, p. 357.

ADJOURNMENT MOTION.

1. ADMISSIBILITY.

*Discussion of matter otherwise possible—
Adjournment motion during budget session.*

During budget session an adjournment motion may be taken up. The bar against the taking of such a motion applies only to the period covered by voting on demands for grants.

Progs: 14th September, 1943, Vol. LXVI, No. 1, p. 39.

*Discussion of matter otherwise possible—
Adjournment motion during budget
session.*

When the subject matter of an adjournment motion tabled during the budget session was capable of being discussed in a debate on a demand for grant on a subsequent day, the adjournment motion was disallowed.

Progs: 12th March, 1945, Vol. LXIX, No. 2, p. 21.

2. PROCEDURE.

Answer to question during discussion.

When during the discussion of an adjournment motion and after the Minister-in-charge had spoken, a question was asked, it was ruled that the Government cannot be asked to give any reply to the question.

Progs: 9th February, 1944, Vol. LXVII, No. I, p. 334.

*Disallowing adjournment motion—Giving
reasons for.*

It is not necessary for the Speaker to give any reason for disallowing any motion including an adjournment motion and such disallowance cannot be discussed or raised in the House.

Progs: 7th June, 1944, Vol. LXVII, No. 6, p. 24.

Discussion on subsequent day.

An adjournment motion may be taken up for discussion on a day subsequent to the day on which notice is given.

Progs: 14th September, 1943, Vol. LXVI, No. 1, p. 39.

Discussion on subsequent day.

An adjournment motion was allowed to be taken up on a day subsequent to the day on which it was admitted.

Progs: 8th February, 1944, Vol. LXVII, No. 1, p. 295.

Discussion on subsequent day.

Although it is the very essence of an adjournment motion that it should be taken up for discussion on the very day when it is proposed to be moved, there is nothing to prevent an adjournment motion being taken up on a day subsequent to that on which notice is given. It is in the discretion of the Speaker to fix a day.

Progs: 18th May, 1944, Vol. LXVII, No. 5, pp. 302, 303, 304, 305, 307 and 308.

[Note.—The adjournment motion was taken up on a subsequent day by agreement of the parties—see p. 312.]

Notice to Government whether necessary.

Notice of an adjournment motion is not necessary to be given to the Government.

Progs: 8th February, 1944, Vol. LXVII, No. 2, p. 290.

3. SUBJECT MATTER.

Matter sub judice—Leave to appeal granted but no appeal actually filed.

When a case was decided by the Federal Court and leave was obtained to appeal to the Privy Council but no appeal had yet been filed, it is ruled that the subject matter of the case before the Federal Court was not *sub judice* for the purpose of an adjournment motion.

Progs: 14th September, 1943, Vol. LXVI, No. 1, p. 38.

BILL.

1. AMENDMENT.

Amendment to preamble seeking to earmark portion of tax for particular purposes.

An amendment to the preamble of an Act seeking to earmark portion of the tax imposed by the Act for certain particular purposes cannot be moved without the recommendation of the Governor, under section 82(1)(b) of the Government of India Act, 1935.

Progs: 25th April, 1944, Vol. LXVII, No. 4, p. 335,

2. PROCEDURE.

Amendment of one member moved by another member.

An amendment to a Bill proposed by one member was allowed to be moved by another member.

Progs: 2nd February, 1944, Vol. LXVII, No. 1, p. 106.

Introduction of Government Bill.

A motion for the introduction of a Government Bill which has been published in the Official Gazette is not necessary. The

practice is that the Minister-in-charge of the Bill simply puts it before the House.

Progs: 24th April, 1944, Vol. LXVII, No. 4, p. 292.

[See also pp. 296 and 298.]

Motion for consideration.

A motion for the consideration of a Government Bill can only be moved by somebody on behalf of Government and not by any other member.

Progs: 13th June, 1944, Vol. LXVII, No. 6, p. 320.

Motion for leave to introduce and for circulation.

A motion for leave to introduce a Bill and a motion for circulation of the Bill can be moved on the same day provided the Bill has been made available to members of the House before a certain number of days. If a member makes a statement that he has sent through post copies of the Bill to members before the specific period, he has fulfilled the condition even though a particular member may not have seen a copy.

Progs: 28th September, 1943, Vol. LXVI, No. 2, p. 382.

Objection that Bill cannot be introduced without the previous consent of Government—when should be raised.

A point of order that a Bill cannot be introduced without the previous consent of Government should be raised at the time of introduction of the Bill; after the Bill is introduced no such objection can be raised.

Progs: 12th May, 1944, Vol. LXVII, No. 5, p. 192.

BUDGET.

CUT MOTIONS.

Criticism of High Court Judge and judgment.

The conduct of a High Court Judge cannot be criticised in the course of a cut motion. Judgments however can be criticised whether on the merits or procedure but without casting any personal reflection upon the Judge and such criticism should be couched in proper and respectful language.

Progs: 24th September, 1943, Vol. LXVI, No. 2, p. 207.

Cut motions by Government members.

It has been the established convention that members of the Government party are not allowed to move cut motions.

Progs: 28th March, 1945, Vol. LXIX, No. 2, p. 540.

Cut motion of one party, whether can be moved by member of another party.

A cut motion given notice of by a member of one party was not, pursuant to the practice followed by Mr. Speaker Azizul Huq, allowed to be moved by a member of another party.

Progs: 25th March, 1943, Vol. LXIV, p. 65.

Cut motion, form of moving.

A cut motion should be moved in the form "That the demand be reduced by Rs..... to raise a discussion about....." leaving out arguments and speeches.

Progs: 21st September, 1943, Vol. LXVI, No. 2, p. 73.

Cut motion, withdrawal of—division.

A motion that "leave be granted to withdraw a cut motion" was put to division.

Progs: 25th September, 1943, Vol. LXVI, No. 2, p. 266.

2. FORM:

*Government of India Act, 1935, section 93,
in force during part of financial year—
Amount of expenditure incurred during
such period not mentioned.*

When a budget statement* was presented in regard to expenditure for a financial year during part of which section 93 of the Government of India Act, 1935, was in force and the expenditure incurred during the period of section 93 was not specifically mentioned, it was ruled that the motions for demands for grants were out of order.

Progs: 7th July, 1943, Vol. LXV, p. 170.

[For text of full Ruling, see p. 48.]

DEBATE.

Document, reading out part of.

A member is entitled to summarise a document without quoting it. But if he reads or quotes a part of the document then the whole of it must be read out.

Progs: 24th March, 1943, Vol. LXIV, No. 3, p. 587.

Governor, criticism of—Governor's personal conduct.

Apart from his conduct as head of the executive, a Governor's personal conduct

cannot be discussed. But a Governor's conduct as part of the administrative machinery is subject to criticism and discussion.

Progs: 5th July, 1943, Vol. LXV, p. 62.

Governor, reference to.

A reference to the Governor is not always to be disallowed. A Governor can be criticised so far as the administration is concerned.

Progs: 21st June, 1944, Vol. LXVII, No. 6, p. 480.

Names, mentioning of.

Names should not be unnecessarily brought in except where it cannot be avoided.

Progs: 21st June, 1944, Vol. LXVII, No. 6, p. 508.

Names of officers, mentioning of.

It is not desirable that the names of officers who are not present in the Assembly and who cannot defend themselves should be mentioned in the course of debate.

Progs: 23rd March, 1944, Vol. LXVII, No. 3, p. 386.

Names of High Court Judges, mentioning of.

It is not proper to mention the names of High Court Judges in the course of a debate.

Progs: 11th March, 1943, Vol. LXIV, No. 3, p. 84.

[See also p. 289.]

MINISTRY.

Defeat of, in Budget Demand for Grant.

When the Ministry is defeated on a demand for grant, the vote operates as a vote of no confidence and no Minister of that Ministry can be allowed to transact any Government business in the Legislature and the Ministry cannot function as a Ministry in the House. In the circumstances the House was adjourned *sine die*.

Progs. 29th March, 1945, Vol. LXIX, No. 2, p. 561.

[For text of full Ruling, see p. 79.]

Resignation of—statement by ex-Minister.

Any member of the House resigning from the Ministry may, with the consent of the Speaker, make a personal statement in explanation of his resignation and a Minister in office at the time when the statement is made is entitled after such member has made his statement to make a statement pertinent

thereto; beyond this no discussion is permissible on the statement made by the ~~ex~~-Minister.

This is so even when the entire Ministry resigns.

Progs: 5th July, 1943, Vol. LXV, p. 37.

[For text of full Ruling, *see* p. 41.]

MOTION.

Motion in same terms.

When a motion has been moved by a member, a motion in the same terms cannot be moved by any other member.

Progs: 17th May, 1944, Vol. LXVII, No. 5, p. 277.

Motion of no-confidence.

A motion of "No-confidence" can be moved against individual Ministers one after another.

Progs: 23rd June, 1944, Vol. LXVII, No. 6, p. 556.

[For text of full Ruling, *see* p. 69.]

Motion of no-confidence—admissibility to be decided on the same day on which notice is given.

When leave is asked for moving a motion of no-confidence under rule 102 of the Assembly Procedure Rules (New Rule 93),

the Speaker should decide on that very day whether the motion is in order. There is no negative provision that it cannot be done on any other day but it should be done on that very sitting.

Progs: 25th May, 1944, Vol. LXVII, No. 5, p. 502.

Motion of no-confidence.

When a notice of a motion of no-confidence has been given in respect of one Minister, another motion of no-confidence in respect of another Minister can be tabled.

Progs: 21st June, 1944, Vol. LXVII, No. 6, pp. 477-478.

Notice of motion given but not moved.

When notice of a motion has been given but the motion has not been moved, the motion is not the property of the House and no other member can move it.

Progs: 15th February, 1944, Vol. LXVII, No. 1, p. 462.

Procedure—Motion for circulation of Bill, putting of.

When there is a motion for the purpose of circulating a Bill for eliciting public opinion, within a certain time the motion may be divided into two parts; first, the

motion for circulation leaving out the time and second, that of fixing the time. If the first part of the motion is lost, it is not necessary to put the second part.

Progs: 16th September, 1943, Vol. LXVI, No. 1, p. 110.

Procedure for putting.

The main motion before the House was that "This Assembly do take into consideration the situation in the Province relating to the supply and distribution of foodstuffs, etc.". To this motion there were two amendments in the following language:—

- (1) "That the Assembly is of opinion that Government have failed to tackle satisfactorily problems of supply, etc.," and
- (2) "That this Assembly declares its considered opinion that the Government of Bengal should take immediate steps, etc."

It was ruled that although strictly speaking the original proposal was not a resolution which could be put to the vote of the House, the amendments might be taken to be independent resolutions and as the first amendment had the widest scope and was in

the nature of a censure motion on the Ministry that amendment was to be put to the vote first. If that was defeated, it was proposed to take up the other amendment.

Progs: 10th March, 1943, Vol. LXIV, No. 3, p. 56.

SPECIAL MOTION.

Special motion—motion in the nature of no-confidence.

It is not necessary that every motion censoring the Ministry should be in the form of a motion of no-confidence. Such a motion may be in the nature of a special motion expressing the disapproval of the policy of the Ministry.

Progs: 12th July, 1943, Vol. LXV, p. 280.

[For text of full Ruling, see p. 56.]

ORDER, POINT OF.

Order, point of, when can arise.

A point of order can arise only relating to matters that are before the House and are being discussed.

Progs: 11th February, 1944, Vol. LXVII, No. 5, p. 381.

Point of order on statement by Speaker.

There cannot be any point of order on a statement made by the Speaker.

Progs: 25th May, 1944, Vol. LXVII, No. 5, p. 35.

• PRACTICE.

Statement on important matter.

When it is proposed to make a statement in the House in regard to a matter which is not in the agenda, the Speaker's permission should first be obtained and he should be apprised of the subject matter of the statement. It is desirable that a statement on a matter of urgent public importance should be made through the leader of a party when the member who wants to bring such matter before the House belongs to a particular party. The Leader of the House should also be given previous intimation of the intention of making such statement whenever practicable.

Progs: 16th May, 1944, Vol. LXVII, No. 5, pp. 244 and 246.

Statement by Leader of the House or Leader of the Opposition.

The Leader of the House and the Leader of the Opposition can make a statement at

any stage subject to the condition that it must be made without upsetting the whole business of the House.

Progs: 30th May, 1944, Vol. LXVII, No. 6, p. 61.

Statement by member on resignation from office of Parliamentary Secretary.

A member can make a statement on his resignation from the post of a Parliamentary Secretary.

Progs: 6th June, 1944, Vol. LXVII, No. 6, p. 183.

Speech of Finance Minister taken as read.

The Finance Minister read out the concluding part of the speech and the rest of his speech is not unparliamentary.

Progs: 14th September, 1943, Vol. LXVI, No. 1, p. 46.

PROCEEDINGS.

Photographs whether can form part of proceedings.

Photographs should not be made part of the official proceedings.

Progs: 28th September, 1943, Vol. LXVI, No. 2, p. 834.

QUESTIONS.

1. GENERAL.

Answer—addition to or alteration of printed answer.

The printed answer to a question may be corrected, altered or added to if subsequent information has been received by the Minister.

Progs: 12th March, 1943, Vol. LXIV, No. 3, p. 114.

Answer by Parliamentary Secretary.

When power has been delegated to the Parliamentary Secretary to answer questions, the Speaker cannot compel a Minister to answer any question.

Progs: 9th February, 1944, Vol. LXVII, No. 1, p. 301.

Answer described as foolish.

An answer to a question cannot be criticised and described as foolish.

Progs: 16th March, 1943, Vol. LXIV, No. 3, p. 284.

Answer, proper form of.

When in answer to a supplementary question the Minister-in-charge referred the

questioner to his [the questioner's] visit to the jail and said that the member was fully cognizant of the facts, it was ruled that this was not a proper form of answer.

Progs: 11th May, 1944, Vol. LXVII, No. 5, p. 140.

*Answer sent by Ministry—resignation of
• Ministry—answer given by succeeding
Ministry.*

When an answer to a question is sent by a particular Ministry which resigns before the answer can be orally given to the Assembly, the practice is to return the question for preparing a revised answer by the Ministry then in office.

Progs: 7th July, 1943, Vol. LXV, p. 157.

Language—putting question in Bengali.

When a member makes a statement that he is not sufficiently acquainted with the English language his statement will be accepted and he will be allowed to put his question in Bengali.

Progs: 12th July, 1943, Vol. LXV, p. 264.

Names of officers, mentioning of.

Names of officers should not be mentioned in asking questions. .

Progs: 16th June, 1944, Vol. LXVII, No. 6, p. 427.

Question involving activities of two or more departments.

When a question put to a Minister involves the departments of two or three Ministers, it is desirable, as far as practicable, for the Minister answering the question to give answers relating to all the departments. But when a supplementary question is asked and it becomes difficult for the particular Minister to reply to it, he may say that it is desirable that the question should be put to the Minister-in-charge of the particular department.

Progs: 15th March, 1943, Vol. LXIV, No. 3, p. 218.

Speaker, power of, to compel a Minister to answer questions.

The Speaker has no power to compel a Minister to answer a question in a particular way.

Progs: 13th March, 1943, Vol. LXIV, No. 3, p. 162.

2. SUBJECT MATTER.

Question relating to railways.

The railway being a central subject, the Provincial Government is not responsible for

every matter relating to railways. But there are certain matters wherein the Provincial Government and the people of the Province are interested and it has been the convention of the House all along that such questions are always answered by the Government.

Progs: 28th March, 1945, Vol. LXIX, No. 2, p. 308.

3. SUPPLEMENTARY.

Answer by Parliamentary Secretary.

When an answer to a question is given by a Parliamentary Secretary, he should answer the whole of it including supplementary questions.

Progs: 16th September, 1943, Vol. LXVI, No. 1, p. 99.

Answer by Parliamentary Secretary— Manner of asking Supplementary Question.

When a Parliamentary Secretary answers a question, the proper form for asking a supplementary question is "Will the Hon'ble Minister be pleased to state, etc."

Progs: 9th July, 1943, Vol. LXV, p. 212.

Form of putting supplementary question.

A supplementary question in the form "Is the Hon'ble Minister aware or not" is

allowable. In such a case the form of question implies that the questioner must be in possession of certain facts and must have knowledge about it and that he only wants to ascertain whether his impression is correct or not.

Progs: 6th February, 1944, Vol. LXVII, No. 1, p. 484.

Information on paper itself.

A supplementary question must be a *bona fide* request for information. If the information is there on the paper itself, no supplementary question can be put.

Progs: 12th March, 1943, Vol. LXIV, No. 3, p. 108.

Speaker, power of, to decide whether right abused.

It is a matter entirely for the Speaker to decide whether the right to put supplementary question is being abused or not.

Progs: 12th July, 1943, Vol LXV, p. 258.

Supplementary—involving matters of department other than that of Minister answering.

When a supplementary question involves a matter not within the department of the

Minister answering the question, the Minister is entitled to say that the question should be put to the department concerned.

Progs: 25th March, 1943, Vol. LXIV, No. 3, p. 614.

REFLECTION ON CHAIR.

Reflection.

The expression that "the Speaker has been trying to protect one side" is a reflection on the Chair.

Progs: 9th February, 1944, Vol. LXVII, No. 1, p. 311.

Reflection: "Speaker in an unusual mood".

When it was said that the Speaker was in an unusual mood, it was ruled that it was a reflection on the Chair.

Progs: 7th June, 1944, Vol. LXVII, No. 6, p. 214.

Reflection. "Speaker on the war path against Opposition".

When it was said that the Speaker was on the war path against the Opposition, it was held that it was a reflection on the Chair.

Progs: 7th June, 1944, Vol. LXVII, No. 6, p. 214.

Reflection.

When a member said that the Speaker had meekly submitted to the Leader of the House, it was held that it was a reflection on the Chair.

Progs: 7th March, 1945, Vol. LXIX, No. 1, p. 491.

Reflection.

When a member said that the Speaker did not hear anything from the other side of the House but he heard whatever was said from this side of the House, it was ruled that it was a reflection on the Chair.

Progs: 9th March, 1945, Vol. LXIX, No. 1, p. 525.

RESOLUTION.

Resolution seeking to amend Procedure Rules taking away power vested in Speaker by such rule.

A resolution which wants to take away a power vested in the Speaker by the Assembly Procedure Rules is *ultra vires* and out of order.

Progs: 13th December, 1944, Vol. LXVIII, p. 459.

SELECT COMMITTEE.

Consent, withdrawal of, by proposed member.

When a member has given his consent to serve on a Select Committee it is not permissible for him to withdraw his consent.

Progs: 16th September, 1943, Vol. LXVI, No. 1, p. 123.

Report of Select Committee—Extension of time for presenting.

When the House is in session the Minister-in-charge who is generally the Chairman of a Select Committee asks for leave for extension of time to submit the report of the Select Committee. If the House is not in session the practice is for the Speaker to extend the time by an administrative order.

Progs: 13th July, 1943, Vol. LXV, p. 318.

Report on Select Committee—Extension of time for presenting.

Although it was the previous practice for the Speaker to extend the time for presenting a report of a Select Committee by an administrative order, Mr. Speaker Nausher Ali ruled that this practice was not regular and he advised the mover of a motion for

reference to a Select Committee to move that time given for presenting the report should be seven days from the commencement of the next session.

Progs: 5th March, 1945, Vol. LXIX, No. 1, p. 411.

Select Committee—Representation of parties in.

There is a convention that all parties or groups should be represented in a Select Committee.

Progs: 28th September, 1943, Vol. LXVI, No. 2, p. 379.

SPEAKER.

Criticism of.

When a member criticises the manner in which the Speaker was calling upon members to speak, it was ruled that the criticism was objectionable.

Progs: 10th March, 1943, Vol. LXIV, No. 3, p. 34.

Power of allowing a member to make a statement.

The Speaker has power to allow a member to make a statement even though the matter on which statement is made is not on the agenda.

Progs: 1st February, 1944, Vol. LXVII, No. 1, p. 38.

STATUTORY RULES.

Rules, laying of.

When certain rules made under the Motor Vehicles Act were not laid before the House as soon as they were made but there was delay in such laying, it was ruled that the laying of the rules could not be prevented as being out of order but that the House could censure the Government if it so liked.

Progs: 14th February, 1944, Vol. LXVII, No. 1, p. 425.

Rules, laying of.

When certain rules made under the Bengal Motor Vehicles Act were not laid before the House by mistake in one session but they were sought to be laid in the next session, it was held that the rules should be allowed to be laid but the legal effect of such laying was left for consideration by the Court if occasion arose.

Progs: 30th March 1945, Vol. LXIX, No. 1, p. 410.

UNPARLIAMENTARY CONDUCT.

Asking for explanation from Mr. Speaker.

When a member demanded why consent was not given to an adjournment motion by the Speaker, it was ruled that the conduct of the member was not proper.

Progs: 7th June, 1944, Vol. LXVII, No. 6, p. 201.

Clapping in gallery.

Clapping in the gallery is not permissible.

Progs: 14th July, 1943, Vol. LXV, p. 481.

Personal aspersion on member.

A member cannot cast personal aspersion against another member.

Progs: 23rd November, 1944, Vol. LXVIII, p. 162.

UNPARLIAMENTARY LANGUAGE.

"Absolute lie".

The expression "absolute lie" is unparliamentary.

Progs: 9th March, 1945, Vol. LXIX, No. 1, p. 526.

"Absurd".

The word "absurd" used with reference to a question that it is an absurd question is unparliamentary.

Progs: 3rd February, 1944, Vol. LXVII, No. 1, p. 150.

"Entertain".

The word "entertain" used in a statement that a member entertains the House with his speech is not unparliamentary.

Progs: 10th March, 1943, Vol. LXIV, No. 3, p. 27.

“False”.

The word “false” used with reference to an answer given to a question is unparliamentary.

Progs: 21st March, 1944, Vol. LXVII, No. 3, pp. 306-307.

“False”

The word “false” is unparliamentary.

Progs: 9th March, 1945, Vol. LXIX, No. 1, p. 526.

“Fellow”.

The word “fellow” used with reference to a member is unparliamentary.

Progs: 27th September, 1943, Vol. LXVI, No. 2, p. 327.

“Gang”.

The word “gang” is not unparliamentary. But such words should not be used.

Progs: 6th June, 1944, Vol. LXVII, No. 5, pp. 177-178.

“Gang”.

It is not desirable that the word “gang” should be used when referring to a number of people.

Progs: 17th May, 1944, Vol. LXVII, No. 5, p. 282.

"Get out".

When a member asked another member "to get out" it was held that the expression "get out" was unparliamentary.

Progs: 9th March, 1945, Vol. LXIX, No. 1, p. 527.

"Intellectual dishonesty".

The expression "intellectual dishonesty" used with reference to a statement made by the Speaker is unparliamentary.

Progs: 18th May, 1944, Vol. LXVII, No. 5, p. 308.

"Lie".

The word "lie" is unparliamentary.

Progs: 10th March, 1943, Vol. LXIV, No. 3, p. 11.

"Lie".

The word "lie" is unparliamentary.

Progs: 13th July, 1943, Vol. LXV, p. 347.

"Lie".

The word "lie" is unparliamentary.

Progs: 27th September, 1943, Vol. LXVI, No. 2, p. 342.

"Lie".

The word "lie" is absolutely unparliamentary.

Progs: 7th March, 1944, Vol. LXVII, No. 2, p. 384.

"Lie".

The word "lie" is unparliamentary.

Progs: 24th May, 1944, Vol. LXVII, No. 5, p. 487.

"Mad cap".

The words "mad cap" are unparliamentary.

Progs: 31st May, 1944, Vol. LXVII, No. 6, p. 91.

"Nuisance".

The expression that a member has become a "nuisance" was ruled to be unparliamentary.

Progs: 15th September, 1943, Vol. LXVI, No. 1, p. 88.

"Nonsense".

"Nonsense" is not unparliamentary.

Progs: 13th December, 1944, Vol. LXVIII, p. 457.

"Petty people", addressing Opposition members as.

The expression "you petty people" used with reference to Opposition members was ruled to be unparliamentary.

Progs: 14th July, 1943, Vol. LXV, p. 462.

“Researches”.

A question was put to the Speaker in the following language:—

“May I know what has happened to your researches on the point relating to the adjournment motion?”

It was ruled that the expression “researches” was objectionable.

Progs: 11th February, 1944, Vol. LXVII, No. 1, p. 383.

“Shame”.

The word “shame” is unparliamentary.

Progs: 3rd March, 1943, Vol. LXIV, No. 2, p. 195.

“Shame”.

The word “shame” is unparliamentary.

Progs: 10th March, 1943, Vol. LXIV, No. 3, p. 59.

“Shameless”.

The word “shameless” used with reference to a judgment was held to be unparliamentary.

Progs: 24th September, 1943, Vol. LXVI, No. 2, p. 224.

“Stealing”, “Stolen property”.

“Stealing” or “stolen property” when used with reference to a document referred to by a member is unparliamentary.

Progs: 16th February, 1944, Vol. LXVII, No. 1, p. 480.

“Swelled head”.

The expression “swelled head” is unparliamentary.

Progs: 25th May, 1944, Vol. LXVII, No. 5, p. 503.

“Your accredited leader”.

“Your accredited Leader” used with reference to the Leader of the Opposition was ruled to be improper.

Progs: 14th July, 1943, Vol. LXV, p. 466.

PART II

***Decisions of Mr. Deputy Speaker
Jalaluddin Hashemy***

18th February, 1942 to 17th November, 1945.

Decisions of Mr. Deputy Speaker Jalaluddin Hashemy

• ADJOURNMENT MOTION.

TIME LIMIT.

Prayer time whether should be included in time allotted.

The prayer time should be included in the time allotted for adjournment.

Progs: 8th May, 1944, Vol. LXVII, No. 5, p. 41.

BILL.

Correction of printing mistake.

A printing mistake in a Bill can be corrected.

Progs: 7th December, 1944, Vol. LXVIII, p. 280.

BUDGET.

SUPPLEMENTARY.

Money already spent, supplementary budget whether can be presented.

A supplementary budget cannot be presented after money has actually been spent.

Progs: 28th February, 1948, Vol. LXVII, No. 2, p. 160.

[For text of full Ruling, see p. 62.]

PRACTICE.

Member, reference to, without any prefix to name.

When a member is referred to, his name should be prefixed by Mr. or something like that.

Progs: 1st February, 1944, Vol. LXVII, No. 1, p. 65.

Declaration, mistake in.

When Mr. Deputy Speaker declared that the "Ayes have it" but at the next moment he said that he had made a mistake and his declaration was a slip of the tongue, the motion was again put and another declaration made.

Progs: 19th December, 1944, Vol. LXVIII, p. 643.

UNPARLIAMENTARY LANGUAGE.

"Blackguard".

The word "Blackguard" is unparliamentary.

Progs: 17th September, 1943, Vol. LXVI, No. 1, p. 183.

"Dirty Liar".

The words "dirty liar" are unparliamentary.

Progs: 22nd February, 1945, Vol. LXIV, No. 1, p. 172.

"Dishonest".

The word "dishonest" is unparliamentary.

Progs: 22nd February, 1945, Vol. LXIV, No. 1, p. 172.

"Dogs".

The word "dogs" used with reference to certain persons was held unparliamentary.

Progs: 1st February, 1944, Vol. LXVII, No. 1, p. 43.

"Like the proverbial monkey".

The expression "like the proverbial monkey" is not unparliamentary.

Progs: 9th May, 1944, Vol. LXVII, No. 5, p. 85.

"Murderer".

The word "murderer" used with reference to a Minister that he can be called a murderer because it is due to his negligence that people have died was held to be unparliamentary.

Progs: 1st February, 1944, Vol. LXVII, No. 1, p. 52.

"Sham House—the House should be demolished".

It is unparliamentary to condemn the House by saying that this is a "sham house" or that bomb should fall on the house and the house be demolished.

Progs: 26th April, 1944, Vol. LXVII, No. 4, p. 365.

"Swindler".

The word "swindler" is unparliamentary.

Progs: 22nd February, 1945, Vol. LXIV, No. 1, p. 172.

"Thief".

The word "thief" is unparliamentary.

Progs: 17th September 1943, Vol. LXVI, No. 1, p. 183.

APPENDIX.

Full text of Rulings.

1. RULING ON STATEMENT BY
EX-MINISTERS.

MR. SPEAKER: I think I can now give my decision. I am thankful to you, gentlemen, for the assistance rendered to me on this novel question.

The answer to the question whether or not the *ex*-Ministers should be permitted to make statements depends upon the interpretation of rule 103 of the Assembly Procedure Rules. To my mind the rule is clear and admits of only one interpretation, viz., that any member of this House resigning from the Ministry may, with the consent of the Speaker, make a personal statement in explanation of his resignation and a Minister in office at the time when the statement is made, shall be entitled after such member has made his statement to make a statement pertinent thereto and that beyond this no discussion shall be permissible on the statement made by the *ex*-Minister. The limitations attempted to be imported into this rule are, in my opinion, unwarranted by the language of the rule. It appears clear to me that any

member who resigns the office of a Minister may make a statement, the only limitations being (i) that it should be made with the consent of the Speaker, and (ii) that it shall be made after questions and before the list of business for the day is entered upon. The question, therefore, arises whether in the present case the Speaker should refuse his consent.

Undoubtedly it is discretionary with the Speaker to give or refuse consent but equally undoubtedly the Speaker will never exercise his discretion arbitrarily but will exercise it judiciously, if not judicially, and never in a way so as to curtail the rights and privileges of members of this House. As a rule a member resigning from Ministry will have the consent of the Speaker and it is only when the Speaker is convinced that to give consent will lead to an abuse of the privilege that he will withhold it. There cannot be any hard and fast rule when his consent should be given and when withheld and each case will have to be decided on its own merit.

I do not think the language of the rule warrants any conclusion to the effect that when the entire Ministry resigns, the members of the Ministry will have no right to make any personal statement. The fact

that the entire Ministry has resigned will by itself be no ground for refusing consent to any *ex*-Minister who may be willing to make a statement. (Cries of "Hear, hear" from the Opposition benches.)

The expression "a member" undoubtedly means "any member" and the singular includes the plural according to the General Clauses Act. Besides, in India the Ministry may not have joint responsibility at all. It has been stated that there is no precedent anywhere and none at least in India where a statement has been made by an *ex*-Minister when the entire Ministry has resigned. I am not aware if there has been any occasion when the *ex*-Prime Minister or any other Minister has made any statement in the British Parliament on an occasion when the entire Ministry has resigned. But I am equally unaware if the Speaker of the House of Commons^{it} has ever refused consent to any Minister to make any personal statement when the entire Ministry has resigned. On the other hand it appears to me that even when there is a dissolution of the Ministry by the resignation of the Prime Minister, a Minister can make a personal statement in explanation of his resignation (*vide* Jennings's "Cabinet Government", p. 65). It

appears to be clear that in Canada explanations are generally allowed to be made in both Houses in case of Ministerial changes including changes of the entire Ministry (*vide* Bourinot's "Parliamentary Procedure", p. 355). It is not, therefore, correct to say that there is no precedent for allowing personal explanation by an *ex*-Minister when the entire Ministry resigns. But even if conventions were otherwise in Britain I shall be loath in slavishly following such conventions in India. Bengal is not Britain and the Bengal Legislative Assembly is not the British Parliament. It has been truly said of the British Parliament that it has got the power to make and unmake everything except making a man a woman and a woman a man (laughter) and it can be said with equal force with regard to the Bengal Legislative Assembly that it can make and unmake practically nothing except at the pleasure of the Governor. (Cries of "Hear, hear" from the Opposition benches.) What would be inconceivable in Britain occurs and passes here as normal incidents. Thus while we should always be ready to profit by the experience gained by Parliaments in other parts of the world we should be, at the same time, chary not to be misled by false analogies. Conventions, I am

afraid, cannot be imported direct from the British Parliament to be engrafted on Indian Provincial Legislatures which differ so vitally from the British Parliament. Conventions will grow up to meet our peculiar needs and exigencies of circumstances.

It is not correct to say that a convention has grown or is growing up in India for not allowing *ex*-Ministers to make statement when the entire Ministry has resigned. The present constitution came into force only in 1937. There have been resignations in various Provinces by individual Ministers as well as by the Ministry as a whole: in some cases the individual Ministers have made statements, in others even individual Ministers have not made statements.

This does not, in my opinion, create any convention or precedent whatsoever. It is optional with the *ex*-Ministers to make a statement. The question could only arise if on the resignation of the entire Ministry the Speaker had refused to give consent to the *ex*-Ministers or to any individual Ministers forming that Ministry simply on the ground that the entire Ministry had resigned. I am not aware if there has been any such occasion in any of the Provinces in India during these years. I am, therefore, clearly of

opinion that in every case of resignation whether of the entire Ministry or of individual Ministers from the Ministry any outgoing Minister or Ministers may, if they so choose, ask for the consent of the Speaker to make personal statements in explanation of their resignation and on each occasion it will be the duty of the Speaker either to give consent or to withhold consent according to his discretion which, as I have already stated, will be exercised in a way so as not to curtail the privileges of the members of this House.

Let me now come to the case before us. It has been stated that Mr. Fazlul Huq has lost the right of making a statement because he did not make a statement on the 29th March, 1943. I don't think there is any substance in this contention. It is clear that the House was adjourned before any business for the day was taken up and long before the time for making any statement, namely, after questions and before the list of business was entered upon, had actually arrived. Moreover, Mr. Fazlul Huq was perfectly clear that he would make a statement on a subsequent day and to-day is the first day after the 29th of March when the Assembly has met and he has asked for the consent of the Speaker at the appropriate time.

It has further been stated that he has lost his right in view of the fact that he has made statements about his resignation publicly on many occasions. That may or may not be a fact and we cannot for obvious reasons take notice of newspaper reports about statements alleged to have been made by him on the subject. Even assuming he has done so, I think it will be no ground for my refusing consent to him to make his statement in this House.

In conclusion I find absolutely no reason why consent should be refused to Mr. A. K. Fazlul Huq. On the other hand, the circumstances so far revealed under which his resignation took place are extraordinary and the whole affair still appears to be shrouded in mystery. Even the date from which his resignation took effect appears to be in dispute. In these circumstances I think I cannot refuse to give my consent if Mr. Fazlul Huq chooses to make a statement to clear up the situation. I give my consent to Mr. Fazlul Huq to make his statement.

As for the other *ex*-Ministers, I think, they also should be allowed to make their statements for the reasons stated above and also in view of the fact that the other *ex*-Ministers belong to different parties who

formed the Coalition Ministry. I give my consent to all the other three *ex*-Ministers who have asked for consent.

Progs. Vol. LXV, p. 37.

2. RULING ON THE ADMISSIBILITY OF MOTIONS FOR DEMANDS FOR GRANTS.

MR. SPEAKER: Order please. I have now got to give a decision on the point of order raised with regard to the demand for grant. The question for my decision is whether or not the motions for demands for grants as proposed to be made by the Government are in order. They have been attacked as out of order on the following grounds:—

- (1) That the budget is one unitary document and cannot be dealt with piecemeal as proposed by the Government.
- (2) That on the prorogation of the Assembly all previous proceedings relating to the budget lapsed automatically.
- (3) That the Governor's proclamation under section 93 together with his authorisation of expenditure under paragraph 3 of the said proclamation have the effect of wiping out

all previous proceedings of the Assembly relating to the budget held in February-April Session.

- (4) That the motions themselves being for indefinite sums contravene the provisions of the law.

It appears to me that the law contemplates the annual financial statement to be one single complete document to be prepared by the Government, laid before the Assembly, discussed and voted upon by it and authenticated by the Governor. I further think that the law also contemplates that the whole procedure should be completed in one session of the Assembly within the time-limit to be fixed by the Governor in accordance with the rules framed by him under the proviso to section 84 of the Government of India Act, 1935. It is clear to me that the law is defective inasmuch as it has not provided for contingencies which could have been foreseen in view of the provisions of section 93 of the Government of India Act. It may be that the framers of the Act contemplated that even in cases where the Governor would assume responsibility for the administration in case of a breakdown of the constitution the expenditure incurred by him would have to be placed

before the Assembly. It may be noted in this connection, as admitted by the Hon'ble Finance Minister, Mr. Tulsi Chandra Goswami, that it is the inherent right of this House to vote supplies and the absence of any provision in the Act making the expenditure incurred by the Governor during the section 93 administration even charged on the revenue is very significant. It is noteworthy that even charged expenditure is subject to discussion, though not to vote, of this House. This view, however, takes no notice of the fact that there may be cases where the operation of section 93 would last for a very long time covering a period of one financial year or over. It appears to have been accepted in some other Provinces in India that the authorisation by the Governor for expenditure for the period during which section 93 would be in operation is not subject to discussion or vote by the Assembly. Thus where section 93 has been in operation from before the financial year, the procedure followed in Orissa and Assam has been that only that part of the budget which was covered by the period after the revocation of the proclamation under section 93 was discussed and voted upon by the House. The rules regarding the time for presentation of the budget, etc., could not, for obvious

reason, be complied with. Section 78 of the Act does not prescribe any time when the financial statement is to be presented though rule 12 of the Governor's Rules does. It is only reasonable to hold that in extraordinary circumstances not covered by the law it should be permissible to place the annual financial statement even after the year has commenced or proceeded further. I do not think there can be any serious objection to such a procedure. But the main question that arises for consideration by me on the present point of order is, not about the time when the budget should be presented, but the propriety or legality of dealing with the budget piecemeal in more than one session. There is no precedent for a case like this. It is contended by the Opposition that such a procedure is not permissible under the law. It is further contended that on the prorogation of the House all pending business of the session lapses except those which are specifically provided for. It is said that in the present case on the prorogation of the Assembly by His Excellency the Governor on the 24th April, 1943, all proceedings in that session relating to the budget lapsed so that a fresh budget for the whole year should have been presented and all formalities complied with afresh.

There is a good deal of force in this argument. Section 73 of the Government of India Act makes express provision for saving of Bills pending at the time of prorogation. There is no such provision with regard to matters relating to the budget. It has been stated that rule 19 of the Bengal Legislative Assembly Procedure Rules speaks of "all pending notices and that in this case Government have given notice of demands which according to them lapsed. In other words, Government's contention is that the budget having been presented and discussed as provided for by the Act and the rules, it has remained there unaffected in any way by the prorogation completed partly and unfinished partly and all that was necessary for the Government to do was to put in fresh notice for the demands which were not voted upon for the consideration of the House and nothing more was needed. Whereas it has been contended by the Opposition that all proceedings relating to the budget in the previous session were dead and gone immediately on the prorogation of the session. The presence of saving clauses in the Government of India Act relating to Bills and the absence of similar provisions relating to the budget in the Act or in the rules coupled with the provision in the proviso (b) to

section 84(1) of the Government of India Act and the rules framed thereunder indicate to my mind that, far from contemplating that the budget could be dealt with piecemeal in different sessions, the law contemplates that the whole thing should be done in one session within the time-limit prescribed by the rules. That is why there appears to be a provision for what is called "guillotining". I doubt very much if the budget can be considered piecemeal in more than one session. The provisions of sections 78 to section 84 of the Government of India Act and rules 12 to 15 of the Governor's Rules framed under the proviso to sub-section (1) of section 84 of the Government of India Act seem to indicate this. But it is not necessary for me to give any definite opinion about it in view of my opinion relating to the other grounds.

Assuming for the sake of argument that such a piecemeal treatment of the budget is permissible under the law there appears, in my opinion, another difficulty in the way of the Government. On the 31st of March, 1943, the Governor issued the proclamation under section 93 of the Government of India Act suspending the constitution. In exercise of the powers taken under paragraph 3 of the said proclamation the Governor on the

same date authorised a budget which is exactly the same as the budget which was originally presented including that part which was actually voted upon and passed by the Legislature. It is clear, therefore, that even before the prorogation of the Assembly by the Governor the budget demands already assented to by the Assembly had been treated by him as not completed to be acted upon and in my opinion this was rightly done. The Government's contention now is that on the revocation of the proclamation on the 24th of April, 1943, the Assembly was restored, in spite of the said authorisation for expenditure and the subsequent prorogation by the Governor, to the position in which it stood on the 29th of March, 1943. They, at the same time, maintain that the Assembly must not consider the expenditure incurred by the Governor between the 1st of April, 1943, and the 24th of April, 1943, even in respect of the demands for grants which were still pending for consideration of the Assembly on the 29th of March, 1943. This, to my mind, appears to be an untenable position. You cannot blow hot and cold at the same time. In one breath you say that in respect of the budget the Assembly has been restored to the position in which it stood on the 29th March,

1943, and in the same breath you say that the Assembly stands in the position where the Governor left it on the 24th April, 1943. Either of the positions may be tenable, but not both. If piecemeal treatment of the budget is permissible under the law, about which I have grave doubts, the Government must either place a new budget for the demands which they now propose to make for the period from the 25th April, 1943, to the 31st March, 1944, or they must totally ignore the authorisation of expenditure by the Governor under these heads during the period from the 1st April, 1943, to 24th April, 1943, and place the entire unfinished portion of the budget for the consideration and vote of the House. It is not for me now to advise the Government as to what they should do. But there appears to be no escape from this position.

In my opinion there is a good deal of force in the contention of the Opposition that the motions as intended to be moved are too indefinite and vague for consideration of the House. Government have not given any indication whatsoever as to the amount of expenditure between the 1st April, 1943, and the 24th April, 1943. They maintain that it is not possible to do so. I am sure

it is not practicable to give the exact figures, but I have grave doubts whether or not an approximate amount can be given. In fact, budget means estimates of probable receipts and expenditure. I think there are ways out of the difficulty, but when Government maintain that it is impossible, it is not for me to give them advice. In this connection it may be mentioned that approximate figures were supplied by the Assam and Orissa Governments when they presented the budget in the middle of the year on the revocation of the proclamation by the Governor.

The motions as they stand without the slightest indication as to the amount of expenditure incurred during the period between the 1st April, 1943, and the 24th April, 1943, are, I am afraid, inadmissible and not in order.

I think, therefore, that I have got no other alternative but to uphold the point of order raised, and I rule that the motions for demands for grants are out of order.

Progs: Vol. LXV, p. 170.

3. RULING ON THE NATURE OF MOTION IN THE FORM OF THAT OF NO-CONFIDENCE IN MINISTERS.

Mr. FAZLUR RAHMAN: On a point of order, Sir, this resolution of Mr. Rai

Chaudhuri has militated against rule 102(1). There it is said that a motion—and a special motion comes within it—expressing want of confidence in the Council of Ministers or in a particular Minister or a motion disapproving the policy of a Minister in a particular respect may be made. Then the procedure is laid down. That procedure has not been followed with regard to this motion and here the wording is: This Assembly is of opinion that the present Government—by the present Government it must be meant the present Ministry—has failed to tackle successfully the food situation in the Province. That means disapproving the food policy of Government in a particular respect. Therefore, I say this should have followed the procedure laid down in section 102(1). As that has not been done, this is out of order.

MR. SURENDRA NATH BISWAS: Your party moved² similar motions.

MR. SPEAKER: Mr. Rai Chaudhuri, have you got anything to say with regard to this point?

RAI HARENDRA NATH CHAUDHURI: A no-confidence motion, as contemplated in section 102, is something very different from the motion that I have tabled. Here there

is an expression of opinion that Government have failed. There is no doubt about that, but at the same time there are certain constructive suggestions and Government can, of course, avoid censure by accepting those suggestions. I do not say that it is not a motion of no-confidence. Surely it is a motion of no-confidence. But it cannot come under section 102 because of the fact that there are certain constructive suggestions and Government, if they are so advised, may accept them. Government can accept these constructive suggestions and avoid censure if they so like. Although it contains censure in the first part of the resolution, it is not a censure motion in its later part.

DR. NALINAKSHA SANYAL: Sir, before you give your ruling, I would invite your attention to the special motion moved by Mr. Tamizuddin Khan—now Hon'ble—as reported in Assembly proceedings, pp. 146-147. The wording thereof was almost exactly the same.

MR. SPEAKER: This again raises a somewhat important constitutional point and it also deals with the rights and privileges of this House. If I am to accept the contention of my honourable friend Mr. Fazlur

Rahman, it will come simply to this that this House has got only one way of expressing its disapproval of the conduct or policy of the Ministry. I, being a servant of this House and the custodian of the rights and privileges of this House, will be very slow to accept an interpretation which will curtail the rights and privileges of this House. In the first place, we all know and it is a recognised and well-settled procedure that censure can be passed on the Ministry through cut motions in discussing the budget. Therefore, it is accepted that apart from the procedure prescribed in rule 102, there are other ways of expressing disapproval of the policy of the Ministry. Now, it may be said that when a specific provision has been made in the rules for censuring the Ministry, no other procedure should be resorted to. I have already stated what happens with regard to cut motions. Next, let us analyse what this rule says. The rule says this: "A motion expressing want of confidence in the Council of Ministers or in a particular Minister or a motion disapproving the policy of a Minister in a particular respect may be made subject to the following restrictions, namely: leave to make the motion must be asked for after questions and before the list of business for the day is

entered upon; the member asking for leave must, before the commencement of the sitting of the day, leave with the Secretary a written notice of the motion which he proposes to make. If the Speaker is of opinion that the motion is in order and is not an abuse of the procedure provided in sub-rule (1), he shall read the motion to the Assembly and shall request those members who are in favour of leave being granted to rise in their places, and if not less than eighty members rise accordingly, the Speaker shall intimate that leave is granted and that the motion will be taken on such day, not being more than ten days from the day on which leave is asked, as he may appoint. If less than 80 members rise, the Speaker shall inform the member that he has not the leave of the Assembly." An analysis of this rule will clearly indicate that it practically dispense with any period of notice, that it may be brought in on the very day, and it also lays down a safeguard against abuse that you cannot bring in a censure motion any day you like if you have not got the backing of at least 80 members of this House. On the one hand it dispenses with the question of timely notice; on the other hand it prescribes a rule which restricts the right to the extent that at least 80 members must

rise to support the motion. Now the rule does not state that any ground whatsoever has got to be stated in the motion for no-confidence.

In the case of resolution it is quite otherwise. You have got to give notice of a certain number of days, I think it is 21 days' notice, and certain other formalities have got to be gone through. I think this House never intended that the members will not have their usual remedy by resolution against Ministers. That will be curtailing the rights of this House. This rule does not restrict the rights of members of this House, but it gives an additional right over and above the right which the House may have in expressing its disapproval of the policy of Ministers. In this view, which I hold, I think this motion is perfectly in order.

Apart from this we have got precedents. Dr. Sanyal has pointed out that the present motion is exactly the same as motion of Mr. Tamizuddin Khan who was then in Opposition. That motion ran thus: "This Assembly is of opinion that Government have failed to tackle satisfactorily the problems of supply and distribution of food-stuffs, kerosene oil, and other necessities of

life and is further of opinion.....". He then gave his constructive suggestions. I, therefore, hold that the present motion is perfectly in order.

Progs: Vol. LXV, p. 280.

4. OBSERVATIONS OF MR. DEPUTY SPEAKER ON THE ADMISSIBILITY OF SUPPLEMENTARY BUDGET AFTER MONEY HAS BEEN ACTUALLY SPENT.

On the 24th February last Dr. Nalinaksha Sanyal on a point of order raised the question whether it is permissible under section 81 of the Government of India Act, 1935, to include in a supplementary statement showing the estimated amount of expenditure over and above the expenditure theretofore authorised for any financial year any amount of expenditure which has already been incurred during the year in excess of the grants voted by the Assembly. His contention is that under section 81 of the Government of India Act, Government must come to the House immediately they discover that a larger expenditure—more than what was provided in the original estimate by this House—is going to be incurred.

Rai Harendra Nath Chaudhuri in another point of order contended that section 81 of the Government of India Act provides for supplementary estimates and it does not provide for placing for the approval of the Legislature expenses already incurred and accordingly both the statement and the speech of the Hon'ble the Finance Minister were out of order.

The point of view of Government as represented by the Hon'ble Khwaja Sir Nazimuddin and the Hon'ble the Finance Minister is that it is the practice and it has been the practice of every Government in every Province to submit estimates under this section of the Act after the expenditure has been incurred and everything is an estimate until the last day of the financial year, that is, until actuals are known.

I have given my careful consideration to the question raised by Dr. Sanyal and also to the provisions of section 81 of the Government of India Act and the preceding sections laying down procedure in financial matters and I must frankly state at the very outset that the matter has already passed out of my hands and it will prejudice the issue and tighten the hands of Mr. Speaker if I give

my ruling one way or the other at this stage. Under the circumstances, it would only be fair and proper on my part now to give a brief exposition of the facts underlying the issue raised and also what may be and not what, should be interpretation of "supplementary estimates".

Ever since the inauguration of the Reforms under the Government of India Act, 1935, it has been found that supplementary estimates placed before this House under section 81 of the Act did contain amounts which had been incurred over and above the budgeted sum during a financial year and this practice has been followed from year to year without any protest from any member of this House. It was only on the 25th February, 1942, Dr. Nalinaksha Sanyal in the course of a general discussion on the supplementary budget of the year 1941-42 made a passing reference to the issue raised here. He said: "I submit that it should be possible for Government to come up to Assembly earlier in the course of the year, if additional provisions are necessary, probably during the Autumn session before the final stages are actually finished". (Assembly Proceedings, Volume LXII, No. 1, p. 375.) No specific issue was then

raised regarding the interpretation of the section, nor was it contended that the estimates were out of order or *ultra vires*.

Whatever might have been our past practice in this matter, I for myself fail to understand how expenditure in excess of the annual grant could be regularised under the cover of supplementary estimates in a financial year and that too in spite of specific provisions of the Government of India Act. It would not be out of place if I quote here an observation of the President of the Central Legislative Assembly on this very question. He said: "I think the Hon'ble Member (Sir George Rainy) will agree with me when I say that if money has been spent already in excess of the grant voted by the Assembly, the Government can only come by way of a motion for excess grant. That is, I understand, the right Parliamentary procedure. However as the Hon'ble Member points out that the practice has been in vogue for the last few years, I do not wish to raise any objection at this stage but will see that the procedure is regularised in future." (Legislative Assembly Debates, 16th March, 1929, pp. 1989-90.)

It is also my considered view that the passing of the annual budget would lose all

its significance if Government are allowed to spend money in the way they have been doing now without any check in excess of the annual grant subsequently regularising the excess expenditure by way of supplementary estimates; and no democratic institution should tolerate it. In this connection I place before you a resolution passed so far back as 30th March, 1849, by the House of Commons on the question of excess expenditure. The resolution runs thus: "When a certain amount of expenditure for a particular service has been determined upon by Parliament, it is the bounden duty of the Department which has that service under its charge and control, to take care that the expenditure does not exceed the amount placed at its disposal for that purpose." (May's Parliamentary Practice, p. 501.)

Now let me pass on to the term "Supplementary Estimates". May in his Parliamentary Practice thus observes:

"A supplementary estimate may be presented either for a further grant to a service already sanctioned by Parliament in addition to the sum already demanded for the current financial year, or for a grant caused by a fresh occasion for expenditure that has

arisen since the presentation of the sessional estimates such as expenditure imposed upon the executive Government by statute, or to meet the cost created by an unexpected emergency, such as an immediate addition to an existing service, or the purchase of land, or of a work of art.” (May’s Parliamentary Practice, p. 500.)

Now it is for Mr. Speaker to decide whether by any stretch of imagination expenditure in excess of the sum already demanded for the current financial year can be construed as estimates specially when the amount of such an expenditure is mixed up with supplementary estimates. In my view this interpretation cannot be possible in any other country than in India where it has become possible under the garb of “usual practice”. I have already quoted the observation of the President of the Central Legislative Assembly in this respect and it was in connection with an explanation of Sir George Rainy when he said that the greater part of the supplementary demand asked for had already been incurred and it had been the “usual practice”. (Legislative Assembly Debates, 16th March, 1929, pp. 1989-90.) I refrain from making any comment on the explanation given by the

Hon'ble the Finance Minister in our House given to the term "supplementary estimates."

It has been said by the Hon'ble the Chief Minister that no democratic institution can function effectively and properly if it is expected that Government must wait for obtaining the approval of the Legislature before incurring any expenditure in excess of the allotted sum provided for in the budget for any financial year. This is how a trained Parliamentarian and a responsible Minister under a responsible Government views the responsibility of this House and interprets the codified law on the subject—laws not codified by this House, nor by the Central Assembly but by Parliaments of Great Britain where the terms "annual estimates", "supplementary estimates" and "excess grants" have all derived their proper and real significance from the gradual growth of Parliamentary institutions and responsible Government.

I shall not proceed any further in the matter, nor shall I make any comment on the unusual situation in the country as a result of which the supplementary estimates of this

year have been placed before this House at the fag end of the financial year and also on the circumstances leading to the passing of the annual estimates for the current year at the last September session of the Assembly beyond this that to meet special circumstances special ways and means have been provided for. It is for the House and Mr. Speaker to decide whether the right Parliamentary procedure has been followed in this respect by the Government and especially the Hon'ble Ministers responsible to this House. I shall only say this much that there was ample opportunity on the part of the Government to take the House into their confidence beforehand for such unusual expenditure for which no estimates, according to the Hon'ble the Finance Minister, could have been possible to be arrived at earlier.

I shall not also make any observation as to the implication of section 81 of the Government of India Act although I have my views about it and I have given indication of the same before. I leave it to Mr. Speaker and it is for him to decide whether he will allow further stages of the supplementary estimates to be gone through in this House.

5. RULING ON MOTIONS OF NO-CONFIDENCE ON INDIVIDUAL MINISTERS.

At the very outset I should like the honourable members to remember that on a matter like this we cannot expect much assistance from the conventions and practices prevailing in other Parliaments of the world. Ours is a unique constitution and its rules are also unique and we have got to base our decision on the Act of 1935 and also on the rules framed thereunder.

Now, I have been asked in the present point of order to rule out the motion of no-confidence against the Hon'ble Mr. Khawaja Shahabuddin, Minister for Labour, Commerce and Industry, fixed for discussion today as well as the no-confidence motion tabled today against the Hon'ble Mr. Tarak Nath Mukerjea, Minister for Revenue. The grounds appear to me to be two-fold. First, it is an abuse of the procedure provided in sub-rule (1) of rule 102 of the Bengal Legislative Assembly Procedure Rules. In the second place, it appears to have been argued that rule 40 that has been specifically referred to by way of reply by Mr. J. C. Gupta is a bar to the taking up of any further no-confidence motion against any other Minister.

DR. NALINAKSHA SANYAL: This was not argued by them. They did not know it.

MR. SPEAKER: Whether they argued it or not is immaterial when I have got to give my decision.

DR. NALINAKSHA SANYAL: I only wanted to point out that they did not know it.

MR. SPEAKER: The relevant facts may be stated thus. A no-confidence motion against the Hon'ble Mr. Barada Prosanna Pain was tabled on the 15th June, 1944, and was fixed for discussion on the 21st instant last. But before the said motion could be taken up for discussion the no-confidence motion against the Hon'ble Mr. Khawaja Shahabuddin was tabled and admitted by me. Today is the date fixed for the discussion thereof. In the meantime the said no-confidence motion against Mr. Pain has been rejected by the House. One more no-confidence motion against the Hon'ble Mr. Tarak Nath Mukerjea has now been tabled, as already stated. It is now urged that as the Council of Ministers are working on the principle of joint responsibility, all the Ministers are entitled to the benefit of the rejection by the House of the said no-confidence motion against Mr. Pain. It appears also to be

further urged that in view of the provisions of rule 40 of the Bengal Legislative Assembly Procedure Rules the no-confidence motions are inadmissible.

The first point that in my opinion arises for consideration is whether rule 40 of the Bengal Legislative Assembly Procedure Rules applied to the present cases. I doubt it does not. In the first place, I am of opinion that rule 102 of the Bengal Legislative Assembly Procedure Rules is not subject to the provisions of rule 40 and is not controlled by it. Rule 102 has not been expressly made subject to the provisions of rule 40. The subject-matter of rule 102 itself excludes, in my opinion, the possibility of the application of rule 40. A session may continue for a fairly long time extending over several months. If a no-confidence motion against an individual Minister or Council of Ministers is negatived in the earlier part of a session there does not appear to be any reason why a similar motion should not be admissible at a later stage of the same session. In fact, cases are not inconceivable where a particular Minister or the Council of Ministers may lose the confidence of the House soon after even a no-confidence motion is negatived in their

favour by reason of acts subsequent to the said verdict of the House or even of acts prior to the said verdict if the acts had not been disclosed or known at the time when the motion was decided in favour of the Ministry or Minister concerned. (A voice of interruption from Government side.)

It is no question of Opposition of Government—it is a constitutional point.

As soon as a fresh cause arises, a member of the House will, in my opinion, be entitled to bring a motion of no-confidence against the Council of Ministers or an individual Minister. Of course, no motion expressing want of confidence can be brought more than once on the same set of facts or circumstances. The above appears to be the clear intention of rule 102 from a plain reading of the rule itself and it appears to me that the only bar to the bringing of a no-confidence motion is when the motion in question is, in the opinion of the Speaker, an abuse of the procedure provided in sub-rule (1) of rule 102.

Assuming for the sake of argument that rule 40 controls the provision of rule 102 I do not see how the present motions can be said to be substantially the same as the

motion already disposed of by the House. The previous motion was directed against an individual Minister as provided in sub-rule (1) of rule 102 for acts done by him. There was no question of any general policy of the Ministry even. involved in the said motion of no-confidence. The defence of the Council of Ministers that they are working on the basis of joint responsibility will, I am afraid, not make the present motions substantially identical with the motion already disposed of.

The next question that arises for consideration is whether in view of the fact that the Hon'ble the Chief Minister has stated that they were working on the principle of joint responsibility the present motion would be out of order. This raises a somewhat important constitutional question. The Government of India Act, 1935, does not make the responsibility of the Council of Ministers joint responsibility nor does the Instrument of Instructions make it so. The latter only indicates that sense of joint responsibility in the Council of Ministers may be fostered by the Governor. If, therefore, the Council of Ministers is working on the basis of joint responsibility it is a purely voluntary act of agreement on their part

binding on them and them alone so long as they choose to work on that basis. It is, no doubt, entirely for the Ministry to take a certain decision as applicable to the entire Ministry or to a particular individual Minister. I do not however think any agreement between the Ministers themselves constituting joint responsibility for themselves can have any effect whatsoever on the rights and privileges of the members of the House specifically given to them by the rules.

Rule 102 makes clear provision for expressing no-confidence in Ministers. Every member can bring a motion under rule 102-(1) expressing want of confidence (i) in the Council of Ministers, (ii) in a particular Minister, or (iii) for expressing disapproval of the policy of a Minister in a particular respect. There is no mention whatsoever of any question of joint or several responsibility in this rule. In fact, the rule does not seem to take any notice whatsoever of the nature of the responsibility of the Council of Ministers. It is entirely open to the Council of Ministers to take a no-confidence motion in a particular Minister or in respect of a policy of a Minister in a particular matter as a no-confidence against the entire

Ministry but that is no reason why the members should be deprived of their right of bringing a motion expressing want of confidence in a particular Minister or as otherwise provided in rule 102, after a no-confidence motion against another Minister has been rejected by the House. I do not see any reason why simply because the Council of Ministers has chosen voluntarily to make their responsibility joint, the members of the House should be deprived of their rights specifically given to them by the rules.

The above interpretation of rule 40 and rule 102 appears to be borne out by the procedure adopted by my predecessor in the case of no-confidence motions against the Ministers in 1938. Then 10 no-confidence motions were tabled against 10 Ministers. The Ministry pleaded joint responsibility. But still all the motions were moved and disposed of by the House one after the other. In my opinion it does not make any difference whether all the motions were tabled on the same day or on different dates. If it is a question of the time to be taken by the motions, certainly it would make no difference if the motions are tabled on different dates. If the contention as made

in the present case were correct then on the first motion being negatived the rest would not have been proceeded with and would have been declared withdrawn, inadmissible or out of order. But it was ruled otherwise by my predecessor.

It therefore appears clear to me that the fact that the no-confidence against Mr. Pain has been negatived by the House is no reason why the present no-confidence motions should be held to be inadmissible. Constitutionally there is no bar to allow these motions to be discussed.

The only point relevant for consideration in a no-confidence motion, in my opinion, is whether any particular no-confidence motion is, in the opinion of the Speaker, an abuse of the procedure prescribed in sub-rule (1) of rule 102. That would in each case be a question of fact and not a question of constitutional law, at all. Every no-confidence motion when tabled would be taken to be a *bona fide* no-confidence motion until it appears to be otherwise to the Speaker. In the present cases the only fact that is being urged against the *bona fides* of the present no-confidence motion is that the other no-confidence motion has been recently negatived by the House. This by itself, in my

opinion, does not make the present motions an abuse of the procedure prescribed in sub-rule (1) of rule 102 but is more or less a technical constitutional question which I have held to be untenable.

It has been urged that the present motions are not *bona fide* motions of no-confidence but are intended to obstruct the business of the House. In this connection mention has been made of the attitude of the Opposition to the Secondary Education Bill. If I understood the Opposition aright I think their attitude to the Secondary Education Bill was avowedly obstructive. But that in my opinion is quite beside the point so far as the present matter is concerned. The motion of the Hon'ble Minister that the Secondary Education Bill be taken into consideration at once was agreed to by the House on the 20th instant, and we have since no programme for Government business. In fact we have already got an order for prorogation (cries of "shame", "shame" from the Opposition Benches) after the conclusion of today's sitting. In these circumstances no question of obstruction to the business of the House can arise in respect of the present motions. It is the inherent right of the minority to convert itself into majority by

all constitutional means and in the circumstances of the present case, repeated and successive no-confidence motions against individual Ministers allowed by rule 102(1) resorted to by the Opposition cannot be said to be in any way unconstitutional. I feel I cannot justly disallow the motions for no-confidence which, if done, will have the effect of curtailing the rights and privileges of members of this House. I, therefore, overrule the point of order and allow the motions for no-confidence.

Progs: Vol. LXVII, No. 6, p. 556.

6. RULING ON THE EFFECT OF DEFEAT IN DEMAND FOR GRANT.

MR. SPEAKER: Yesterday after the demand for grant for Agriculture had been thrown out of the House I wanted to proceed with the rest of the business but Sir Nazim-uddin stated that Government would not move any further demand that day. He further stated that Government had not had reasonable opportunities of discussing the Agriculture demand and that he would take the vote of the House as a snap division evidently meaning as not a censure on the Ministry.

On these facts, the present points of order have been raised. There appear to have been three points stressed. One is with regard to the carrying over of the business scheduled for yesterday to today. The other, if I have understood aright, is a complaint made by Sir Nazimuddin that the Government side was not allowed opportunities for discussing the demand for Agriculture. The third and, in my opinion, the most important constitutional point that has been raised is what is the effect of the decision given by the House with regard to the demand for grant for Agriculture.

Now I propose to deal with these three points separately. As to whether or not the business of yesterday's agenda not discussed and not voted upon can be discussed and voted upon today, the position appears to me to be this: Clause (b) of the proviso to section 84 of the Government of India Act empowers the Governor to make rules relating to the timely completion of financial business. In exercise of the said powers, the Governor has made certain rules. Whatever doubt there might be relating to the *intra vires* or *ultra vires* character of some of the provisions of these rules, I have not the least doubt that the Governor is

competent to fix the last date for disposal of financial business; and in the present case the Governor has fixed today as the last date. As for the allotment of particular business for particular days, that has been done by the Speaker in consultation with the parties, mainly in consultation with the Opposition parties. This year too this had been done. Changes necessitated by circumstances have also been made by the Speaker from time to time. Yesterday the unfinished business was not taken up, and Sir Nazimuddin did not wish to proceed further and I had accordingly to adjourn. In my opinion the business that remained unfinished could be legally and regularly brought over to today and that has been done by me; (DR. NALINAKSHA SANYAL: Without a request from Government?) and in my opinion there is nothing in the law or in the rules which prevents the Speaker from doing it. On the other hand, I think that rule 22 of the Bengal Legislative Assembly Procedure Rules clearly gives the power to the Speaker, or in other words the rule says that practically automatically the business goes over to the next day for transaction of business of the same kind. I do not think therefore that there is any substance in the contention put forward by Dr. Sanyal that

there is any irregularity with regard to the unfinished business being brought over to today.

Next, let me come to the complaint made by the Hon'ble Sir Nazimuddin. With regard to the alleged grievance on the Government side that they were not allowed to exercise their right to speak on or move cut motions, I should only like to lay before the House certain facts which, I hope, will speak for themselves.

Owing to the death of Sir A. F. Rahman, the House was adjourned, I had a talk with Sir Nazimuddin as well as with some of the Opposition leaders. Both Sir Nazimuddin and the Opposition leaders felt somewhat inconvenienced to adjourn the House and there was in fact some suggestions from some leaders if we could transact business scheduled for the day after a short adjournment to show our respect for the late Sir A. F. Rahman. But in view of the practice so long prevailing, it was thought desirable to adjourn the House completely for the day. In the course of the talk, Sir Nazimuddin traced the origin of this practice and stated that the Speaker would have some day to take up the matter for discontinuing it. After it had been decided to adjourn the

House wholly for the day, the question arose as to how and when the demand scheduled for discussion and voting on the 27th should be disposed of. The Opposition wanted an additional sitting in the morning.

KHAN BAHADUR MOHAMMED ALI: Are you reading from any document, Sir?

MR. SPEAKER: I have got my own notes.

MR. FAZLUR RAHMAN: We only wanted to know.

MR. SPEAKER: Everybody knows.....

THE HON'BLE MR. H. S. SUHRAWARDY: Yes, Sir.

MR. SPEAKER: The Speaker is supposed to have some commonsense. Very serious reflections had been made on me by the Leader of the House yesterday and I have to meet them. The Opposition wanted an additional sitting in the morning. The Government discountenanced the proposal and I agreed with the Government. The two other alternative suggestions were: early sitting or extended sitting. The Assembly generally sits from 4 p.m. to 7-30 p.m. and it was suggested that we might sit early or sit at the usual hour and rise later. Now sitting for extended hours is generally opposed by the

Government side on the ground of inconvenience to members, specially to the European members who take their dinner at about 8 p.m. In the present case also, the same ground was urged on behalf of Government side. The Government Chief Whip went to the extent that if the House lost a day appointed by the Governor for the discussion of the budget for no fault of Government, the Opposition was not entitled to extended or longer hours or time but that they should be satisfied with the usual time from 4 p.m. to 7-30 p.m. for all the demands originally scheduled both for 27th and 28th. I persuaded the Government Chief Whip to agree to an early sitting and it was at the desire of the Hon'ble Chief Minister as communicated to me by the Government Chief Whip that 3 p.m. was fixed for the commencement of the Assembly.

MR. FAZLUR RAHMAN: In order to accommodate you, I had to do it.

MR. SPEAKER: I am making my statement.

MR. FAZLUR RAHMAN: I did not then realise that you wanted to help the Opposition.

MR. SANTOSH KUMAR BASU: He did not realise that they would get a beating in the House.

MR. SPEAKER: It is very difficult for the Speaker to continue if interruptions are made constantly like this. I have got to give my decision according to my light. You may agree or disagree. In fact when just after declaring in the House that the Assembly would sit at 3 p.m. yesterday I had gone to my Chamber, the Hon'ble Khan Bahadur Saiyed Muazzamuddin Hossain, Minister for Agriculture, saw me and asked me why 3 p.m. and not 2 p.m. was fixed for the sitting of the House and I told him at once that the time was fixed at the desire of the Hon'ble Chief Minister. The underlying idea was that the one extra hour would be available for discussion and voting on the demands for Agriculture and Veterinary originally scheduled for the 27th. This was not quite acceptable to the Opposition and in fact even after this had been decided Dr. Sanyal approached me with his Leader Mr. K. S. Roy and insisted that the sitting should be continued even after 7-30 p.m. if necessary. But in view of the attitude taken up by the Government Chief Whip I did not commit myself. In the course of the discussion on the 27th instant with the Opposition Whips for fixing

the time for yesterday's sitting I wanted to ascertain from them what time according to them should be allotted for Agriculture and Veterinary demands. But they seemed reluctant to give me any definite idea. Thereupon I requested the Opposition Whips to give me yesterday some idea as to the time. The Government Chief Whip saw me thereafter and enquired of me if the Opposition Whips had given me any idea about the allotment of time for the demands and I replied in the negative. I also told him at the same time that they had been requested to give me their idea about the time the next day. The Government Chief Whip further stated that even if a definite time be allotted for any demand, voting might take place before the end of the time allotted and I told him that that was quite probable. None however turned up and gave me any idea about the time. When I think, the bell was ringing or was about to ring for the sitting of the House yesterday, the Government Chief Whip approached me in my Chamber and asked me if the Opposition Whips had given me any idea about the allotment of time. I told him that none had come and none had given me any idea.

Coming now to the proceedings of the day, we sat punctually at 3 p.m. yesterday.

Questions took about 25 minutes. The Hon'ble Minister moved the demand for grant without any speech. The cut motions scheduled for being moved were called one after another but none of them were moved. It appeared at about this time that a large number of members belonging to the Ministerial party had crossed the floor of the House. The Opposition wanted vote straight-away claiming that they commanded majority in the House. Some members rose from the Government side claiming to move cut motions and some to speak. Others rose on point of order. This state of things continued for about half an hour. In the meantime I had said that I would allow the Hon'ble Minister to speak for 10 minutes. At about 3-55 p.m. the Hon'ble Minister began to speak and in the meantime I began calculating as to what would be the proper time when I should put the demand to vote. I found that on the basis of one hour allotted to the demand for Agriculture and Veterinary as already stated, both the demands must be completed before 4-25 p.m.

MR. FAZLUR RAHMAN: In what way?

MR. SPEAKER: But I calculated also in a different way.....

MR. FAZLUR RAHMAN: On what basis, Sir? You gave me an idea of about 5-30 p.m.

MR. SPEAKER: You may say that but you must hear what I am now stating. But I calculated also in a different way. I calculated it sitting here while the member was speaking.....

(At this stage Mr. Fazlur Rahman rose to speak and there was a loud noise in the House.)

Order, please. Mr. Fazlur Rahman, you can make a statement after I have finished. I cannot quarrel with you. I am now making a statement which according to you may be incorrect but you may make a statement after I have finished.

I calculated also in a different way, namely, to give half of the time available during the sitting to demands for Agriculture and Veterinary together, for which originally one day was allotted and the other half to Famine for which also originally one day was allotted. Thus calculated keeping a margin of about 15 minutes for voting and division, if any, and thirty minutes for prayer recesses the total time available became three hours and twenty minutes for all the demands. Half

of it being given to Famine one hour and forty minutes was available for Agriculture and Veterinary. I allotted one hour and five minutes for Agriculture and thirty-five minutes for Veterinary. Thus though I had originally said that I would allow the Hon'ble Minister to speak for ten minutes only, I did not stop him and he finished reading out his written speech and resumed his seat at about 4-22 and while he was still speaking at the insistent demand of the Opposition, according to the calculation already stated. I stated that I would put the matter to vote punctually at 4-30 p.m. Thereafter when the Minister had finished his speech I called upon Maulvi Ahmed Ali Mridha who wanted to speak. Mr. Mridha spoke for about ten minutes and if I had followed him properly he scarcely uttered a word relevant to the subject-matter under discussion but cast reflections on the members who crossed the floor and also perhaps on the Opposition. Thereafter according to my previous announcement I put the matter at about 4-32 and the division was completed at about 4-42.

A glance at the rules will show that the Minister in moving the demand could speak and after criticism of the demand by the Opposition and the replies or debates, if any

on the demand, the Minister could again speak. In this case the Hon'ble Minister did not at all speak while moving the demand in the usual expectation that he would meet criticism after the cut motions had been moved and the demand criticised and debated upon. Unexpectedly no cut motion was moved, nor any criticism offered by the Opposition. There was thus practically nothing to reply to but still I allowed the Hon'ble Minister to explain the view point of the Government with regard to the demand specially because the Minister had not spoken in the beginning in the expectation that things would take the usual course. I do not think it can be denied that criticism of demand is mainly the privilege of the Opposition and the major share of the total time allotted for any discussion is normally taken by the Opposition. In this case about 37 minutes in actual speech was taken by the Government side and not a minute by the Opposition. It may be noted that the Speaker has got the right and power to fix time-limit for discussion. These are the facts and I do not want to give any opinion. The matter must be left to the House.

One word with regard to not allowing cut motions to be moved by the Government side

members. Cut motions which are more or less in the nature of censure should not in my opinion be allowed to be moved by the members supporting the Government and as far as I remember it has never been allowed as long as I have been the Speaker and this practice which I consider to be a sound one has been handed down from the time of Sir Azizul Huque.

THE HON'BLE MR. H. S. SUHRAWARDY: Cut motions also raise a discussion and are not a vote of censure.

MR. SPEAKER: (*Vide* progs. Vol. LII, No. 5, 1938, pp. 63 to 69.) The matter went so far that during the last budget session while the European Party moved certain cut motions but subsequently asked for permission to withdraw, Dr. Sanyal, Whip of the Official Congress Party, objected to this procedure on the ground that the European Party, though calling itself independent, had invariably supported the Government and it was not proper that they should be allowed to move cut motions and then to withdraw them. This led Mr. Stark, the Whip of the European Party, to approach me this year as to whether they would be permitted to move cut motions this year. It thus appears to me to be pretty clear that far from allowing cut

motions to be moved by members belonging to the Ministerial Party the moving of cut motions by members of an Independent Party that generally supports the Government has been objected to. I am not aware of any occasion when I or the Deputy Speaker had allowed any cut motion to be moved by the Ministerial Party. On the other hand, as I have already stated, the present practice of not allowing cut motions to be moved by members of the Ministerial Party was introduced by Sir Azizul Huque after due consideration and it has not been departed from since. Of course members of all parties are allowed to offer general remarks on the budget during the general discussion as well as on the demand for grant.

Now, this is only with regard to the complaint made by Sir Nazimuddin with regard to my depriving the Government side of their legitimate right of discussion.

The most important question however is the question as to what is the effect of the decision of the House refusing the demand for grant for Agriculture. In ordinary course I would have taken a fairly long time to consider this matter, but circumstanced as I am to-day, namely, I have got to give this

decision before 6-30 p.m. to-day, I am compelled to give a decision here and now, but I think I have given my best consideration up till now and my decision is as follows:

THE HON'BLE MR. H. S. SUHRAWARDY:
That is not your function.

MR. SPEAKER: It is certainly my function—who says that it is not my function?—because I have got to decide whether I should allow other motions to be moved. But I think it would have been better if you had given me a little more time for calmer consideration, but you have compelled me to state here and now what my decision should be. Sir Nazimuddin said yesterday that he would treat this as a snap division and not a censure. I am afraid the constitutional position has not been properly conceived. The Ministry is the creature of the House; the House can make and unmake the Ministry and the Governor is but the registering authority of the decision of the House. (Cries of “Hear, hear” from the Opposition Benches.) Any other course, I am afraid, would strike at the very root of democracy. Now, besides direct no-confidence motion against the Ministry as a whole or against individual Ministers, there are other recognised modes of expressing no-confidence or censure on the Ministry as a

whole or on individual Ministers, and one of such modes is the throwing out of demand. Refusal by the House of a demand for grant made by the Ministry for a major department which makes the administration impossible is an unmistakable censure. Nor is it permissible under the rules to bring forward the same demand again before the House during the same session—*vide* rule 39 of the Bengal Legislative Assembly Procedure Rules. In a case of this nature after the verdict has been recorded by the House the Ministry, or in the case of a Ministry with joint responsibility, the Chief Minister carries on the routine business of the administration practically theoretically preparatory to making over charge to his successor, who, according to the Indian Constitution, would normally be the Leader of the Opposition if appointed by the Governor as Chief Minister and in exceptional circumstances the Governor himself where, in appropriate cases, section 93 is resorted to. Now, I have grave doubts if in the present case the Speaker should allow any Minister including the Chief Minister to transact any Government business. Sir Nazimuddin may claim that the decision of the House as given on the demand for grant for Agriculture does not really reflect the opinion of the majority of the House, but I

doubt if it is permissible to be dragged into the realm of speculation after the verdict of the House against the Ministry. I doubt, therefore, I cannot allow the Ministry function as Ministry in this House. (Cheers from Opposition Benches.) Besides rule 39 of the Bengal Legislative Assembly Procedure Rules is a complete bar to moving the motion for demand for grant for Agriculture during the current session, and in view of my previous ruling that the budget is an indivisible unitary document which should be carried through during one and the same session of the Assembly and in view of the further fact that this has become impossible now, I do not think I can or should allow the Ministry or any Minister to move any further demand for grant.

In these circumstances I think the House cannot function any longer unless a new Ministry is formed.

The House stands adjourned *sine die*.

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- "Your accredited leader", 34.

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